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FACTORY COMMISSION:

THE LEGALITY OF ITS APPOINTMENT QUESTIONED,
AND THE ILLEGALITY OF ITS PROCEEDINGS
PROVED.

"We want no commissioning."—*Old Song.*

King Henry. "Have you a precedent for this commission?
I fear not."—SHAKESPEARE.

ADDRESSED TO LORD ALTHORPE,

BY

GEOFFREY CRABTREE,

LATE ATTORNEY-AT-LAW.

LONDON:

L. B. SEELEY AND SONS, 169, FLEET-STREET.

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WHY NOT

QUASH THE COMMISSION?

MY LORD,

“EVIDENCES ought to be of easy discernment and great perspicuity.” Your Lordship will excuse the prejudices of an old man in favour of the laws of England. I have many fond recollections of their praises scattered up and down the books which were some little time ago the profit and the pleasure of my life. I remember especially the laud bestowed upon them for the severity of proof which they demanded in all questions affecting life and liberty. What just and noble eulogies do our favourite commentators from Fortescue to Blackstone pass on the continuance and effect of Trial by Jury! How transparent in its purity—how universally convincing in its effect! If a failing memory does not deceive me, that which may be considered as the essence of their praise, the chief consideration on which they rest its proof, lies in the contrast which they discover between the unquestionable nature of evidence so established, and the modes adopted in the jurisprudence of other countries, which are found, in almost all known cases, to incline more to partiality and secrecy. For this providential circumstance in our laws, we have not to thank our own wisdom. Modern refinement has often aimed its arbitrary rod at the head of it. I have stumbled upon several smart essays, put forth by reasoners who call themselves liberal, purposely to disparage it. We all admit that it must have had its origin in times said to be less enlightened; and to this I accede, if by enlightenment we understand the knowledge of physics and the mechanical powers. But as to the

knowledge of man in that most important affair of his social existence—the moral focus of government, I deny that supposed superiority of our predecessors totally. I am old enough to be careless as to the reception of my notions; but I am not too old to be convinced. If science, in its modern developments, or in any like them, really does impart its improvements to the philosophy of government, how is it that the strength of nations grows from barbarism and declines to such melancholy corruption just at the time that the arts reach their perfection? All the old commercial states give us proof of this. Is there any sympathy between the moral, physical, and governmental condition of nations? Undoubtedly there is. Then must the material condition be influenced by the other two, and the problem yet to be solved in practice is, to introduce the refinements of science, and the enjoyments of luxury, without deteriorating the condition of the people in the main. That task has yet to be accomplished, and he who succeeds in it will excel Hercules and his twelve labours. I am afraid I cannot congratulate your Lordship's administration on having the secret path and the golden branch which are to enable you to penetrate that mystery. I say it in pure friendship and with unfeigned regret, that the spirit which guides your measures is one which never failed to confound a nation already too proud of its wealth, and too regardless of its people. Among whatsoever people the claims of property are set up above the rights of nature and the decencies of rational existence, the glory and strength of that people have not a long duration to expect. That is a point of history which you may gather from the fate of all princes and nations of boasted opulence, from Pharaoh to the Medicis, from Memphis to Great Britain. But I find myself wandering, and now come at once to the question.

Among the tendencies to error, to devious and uncomfortable courses in the paths of government, I have selected the rage evinced by the ministry of which your Lordship is a member, for working out demonstrations in domestic

policy by the false rule of Commissions, appointed without any other symbol of public credit than the great seal, and executed purely at the expense of the parties so appointed. I am not to be charged with any defect of loyalty, or of respect for public authority, merely because I speak thus of functionaries exercising the delegated authorities of the Crown. Such a cry is to the last degree ridiculous. If the appendage of the Great Seal is a shield from censure and even from observation, why, it was an exemption for Empson and Dudley, as much as for the "grave youths" who are now making such profitable way into the obstetrical mysteries of child-birth among the mothers of factory population.

So do I not read the law of England. There must be a public necessity in the matter, and a legal necessity in the manner, and there ought also to be a pretty general concurrence among those of experience and credit as to the capabilities of the new officers in such appointments, or the end of the law is not answered, and the controlling rule of the law is broken. Without circumlocution, I am nearly certain that the Factory Commission is an appointment against law, and I am quite certain that if the law of England is to prevail, the proceedings must be quashed for their illegality. It is a difficult matter for an obscure man to challenge the lawfulness of a process issued at the suit of one branch of the legislature, and with the concurrence of the law officers of the Crown, without drawing on himself the ridicule of the country. I have resolved to risk this encounter, because the violence done in the case of the factory commission to humanity, by contempt of the boundaries of legal authority, is the most grievous that has ever threatened the bodies and health of the King's subjects. I may fail in proving my case to the satisfaction of your Lordship and your colleagues, of those who formed the majority in favour of the commission of the chattering apes, who repeat unthinkingly the watchword of ministerial wisdom; but my error will have the assent of some of the greatest luminaries of the law.

My first proposition is, that the House had not sufficient

power to grant this commission, even with the assent of both parties; how much less at the instigation of one against the remonstrances of the other! Your Lordship will observe here, that as to all legal purposes, the existence of two parties to the question of child labour in factories, falsely supposes a right in the masters to interfere as masters with legislative questions, as to the health and training of children. This was the direct source of the opposition to Lord Ashley's bill; this was the ground of right claimed in the Commons on behalf of the owners of steam-mills. You will hardly wonder at the bewildering consequences which have followed, if you will give a moment's attention to the frightfully iniquitous proposition. Were the mill-owners answerable in their property and prospects for the condition of their labourers as the owners of slaves are every where, they would have had a specious right to be heard. But what right could any man have to interfere in regulations concerning the health and well-being of people with whom he has not one minute's sympathy, nor even a seeming mutuality of interest before or after the period during which he enjoys profit from their labour? How would the mill-owners relish it, what would your Lordship say of their modesty, if the labourers were to persist in a proposal, and choose their own members to force it on in Parliament, to tax inanimate machinery up to the proportion that its living rivals pay to the State? Yet must you allow that the amount of impertinence and injustice would run monstrously high on the side of the masters in this contrast. How then could a man of your Lordship's discernment admit this impure interference with the powers of our own house of legislature? It is clear to me that you did not see, in yielding to it, and soliciting the Crown to interpose its authority in favour of it, that you were disgracing the representative body, and straining the prerogative to unjust and forbidden uses. I admit that you have licence to advise the Crown to inquire by commission. But into what? Not into questions of natural philosophy; for these are beyond the dominion of the Crown. The Board

of Longitude may convince you that in these matters the Royal authority prevails no farther than in enabling its elect to conjure up their own salaries. Not in respect of the interests of particular estates, unless you would provoke anew the question of the reapplication of the Abbey lands. If you cannot thus inquire into the private estates of men, how then do you propose to inquire by this course (leaving the absurdity in thus dealing with a question of medical science apart) into the bodily capabilities of children to endure a degree and kind of labour which are denounced by the medical faculty and the maternal feelings of all England as wholly unfit for longer continuance? Your Commission, to be worth anything, bad as it is in its origin, ought to have been issued to matrons, midwives, and practitioners in lying-in hospitals. All the other purposes of its inquiry range under the heads of policy, and political economy, and the *quidnunc* philosophy of the believers in the omniscience and saving grace of the steam-engine. The first is settled by the medical evidence of last year. The second must be unfit for delegation, unless both ministers and Parliament are unfit for the fulfilment of the duties which they have taken upon themselves to perform.

All this, however, is beside the mark. I assert that the Crown had no proper authority to issue the Commission. I deny, in any question in which the rights of other parties are concerned, the right of any authority less than that of the whole Parliament to send out a commission of this nature; and I will prove to you by the highest authority of the law, that your duty as a minister was to advise the King to refuse it as something not in his capacity to grant.

It is true that the cases I have to show must borrow something from analogy: and it may suit the few men of legal ability who cling to you in the affair, to make the most of the special plea which will be drawn from thence. As a point of ministerial credit, however, even your friends cannot wish you success; unless it be a commendable ambition in a minister to show the world how dexterous

he is in riding by the spirit of the law, mounted upon a windy interpretation of its letter; and that, too, in a case of no urgency to justify even a momentary preference of expediency to right. Do you believe that the Crown has a right to grant a commission to inquire into the usefulness or inutility of the doctrines of the Church of England? Try it, and you will hear what the bishops will say. The Crown has issued a commission to inquire into the depopulation of houses, into the condition of salmon-fisheries and the destruction of young salmon, and into the uniformity of weights and measures. In each of these cases, the judges of the land, upon solemn argument and deliberation, have quashed the commissions. The reasons are best declared in their own language. Your Lordship will perceive that they all terminate in declarations that it requires the authority of Parliament to allow the issuing of commissions of "Novel Inquiry," as they tauntingly term them.

Coke's note on the words of the stat. Westm. 2nd, cap. 47. :—

"*Assignentur conservatores istius statuti.*"—"And this assignation must be by commission, under the Great Seal; and such a commission could not have been made without warrant by authority of Parliament. *For legal commissions have their due forms*, as well as original writs, and none can be newly framed without an Act of Parliament, how necessary soever they seem to be; as in this case it was necessary that such a commission should be granted for preservation of salmons and their young, and for avoiding of the destruction of the same, being victual of great and precious account; and what is more necessary than increase of victual? Yet could it not be newly raised without an Act of Parliament. But Commissions of New Inquiries, &c., and of new invention, have been condemned by authority of Parliament, and by the Common Law."

Again, on the word *jurati* (same chapter).—"A new oath cannot be imposed upon any judge, commissioner, or any other subject, without authority of Parliament,

“ as here it was ; but the giving of every oath must be warranted by Act of Parliament, or by the Common Law, time out of mind.”

“ Commissions, in English, under the Great Seal, were directed to divers commissioners, within the counties of Bedford, Bucks, Huntingdon, Northampton, Leicester, and Warwick, to inquire of divers articles annexed to it. And the articles were also in English, to inquire into the depopulation of houses, converting of arable land into pasture, &c. But the commissioners should not have any power to hear and determine the said offences, but only to inquire of them. And by colour of the said commissions, the said commissioners took many presentiments in English, and did return them into Chancery ; and after (Sal. Tri. 5 Jac.) it was resolved by the two Chief Justices, and by Walmsley, Fenner, Yelverton, Williams, Snigg, Altham, and Foster, that the said commissions were against law for three causes.

“ 1. For this, that they were in English.

“ 2. For that the offences inquirable were not certain within the commission itself, but in a schedule annexed to it.

“ 3. For this, that it was only to inquire which was against law ; for by this a man may be unjustly accused by perjury, and he shall not have any remedy, for this, that it is not within the statute of 5 Eliz. 30. Also, the party may be defamed, and shall not have any traverse to it, &c. 12 Rep. 31.

“ Commissions to assay weights and measures, ordered to be called in and quashed, and no such commissions to issue in future, by 18 Edw. 3. c. 4.

“ Commissions of new inquiry ordered to cease, and to bring their commissions and proceedings to the Exchequer to be quashed. Same statute, c. 1.”

Here we have instances in which the Crown has been checked in the exercise of its prerogative, by those who in the main are its best supporters, and who never render it better service than when they restrain it from disturbing or destroying the ordinary channels of justice. Your

Lordship will perceive, perhaps by this time, that if the Crown of itself can thwart the appointed course of examination in one instance, it may in another; and by delegating its authority upon different questions into various hands, none of whom can be supposed otherwise than obsequious to its will, the legal rights of the subject may be whispered away before the nation receives any warning of the attempt. Add to this the adoption of unknown modes of procedure, and a course of examination arbitrarily set up by the examiner, altogether strange to the law, and as to which the parties most interested have been kept in darkness, until the report, intended and fabricated as the basis of the new law, is put before the world, and confusion can go no farther. It is true that Ministers had a vote of the Lower House of Legislature, to sanction this intrusion upon the deliberative functions of Parliament. What then? It is Parliament that is omnipotent, not the House of Representatives, nor this estate and the Crown united. You cannot commission a new course of inquiry into the condition of fishes, but you may search for arguments for destroying factory children, if the House of Commons will abet the grant! I wish the ministry and the country joy of this gracious exercise of its own powers by their new House. In clamouring for Reform we asked for a fish—we have got something very like a serpent.

Your Lordship manifestly confides too much in the unhesitating promptitude of voting among an assembly in which the business of legislative deliberation is a novelty to many of its members. The new infusion unhappily does not suit the constitution, nor dry up the present humours of the patient. It must not be disguised by us, who are reformers in spirit and in truth, that, for the present, we have added considerably to the average ignorance of the Lower House—and more than that; the ignorance of the new sample is the very worst for the purpose of legislation, that can be fostered by the public favour. Sleek men, with purses well filled, and portly paunches, both swelled by honest industry, are very well

in their way; they do credit to the presiding genius of the State, by proving to the world how securely people of the dullest faculties may eat and sleep. But if they have nothing besides these, which are always indicative of a temper subject to fits of crawling terror concerning this world's possessions, we look in vain for the wisdom to frame good laws, or the virtue to correct bad ones. Your Lordship, after goading that assembly almost into a panic fright, has put in a sudden requisition for their votes, which their hurried and inexperienced senses dare not refuse. Two years ago there was not a man in England who would have believed in the possibility of your emulation of the late Mr. Nicholas Vansittart, by running a resolution of the House of Commons against a law of nature, or an undisputed maxim of policy. This you have done more than once, and I compassionate your success. Stick to the Septennial Act, my Lord. You have the eloquent members for Wigan and Lancashire on your side; the politicians of the Factory system, as against law established, give you their support. As certainly as you are minister, the next House will spurn the dictatorial conclusions to which you have driven your innocent and confiding novices. But you were never so essentially wrong as in allowing this Factory Commission.

I will not trouble you with any suggestions upon the insane conceit of a nation getting rich by the impoverishment and degradation of its labourers; nor upon the incalculable baseness of a people who can almost assent to place the weighty consequences of former state-profligacy on the shoulders of infants—(which is the simple meaning of the danger threatened to public credit by the Factory Bill)—but hasten on with my argument.

Your Lordship will see how provident the law is of preserving the due and accustomed forms of justice. You must see that new and uncertain modes of inquiry are hateful to it; and that it will not allow any thing to be done by Commission, however useful or needful, unless with the full concurrence of the whole Parliament. For example, had we judges of the same spirit and opinion as

those who determined the case in Coke's Report, and any one, having been committed by them, had brought the question before the Courts of Westminster Hall, we can have no doubt that the Commission would have been quashed. Even in these days of compliance and "judicial good breeding," the party must have been released, for want of authority either to compel evidence or to swear it.

If the Commission were bad in its inception, it is ten times worse in its execution. About the first point, there would remain doubts among those of the best conscience. It belongs to the debateable boundaries of privilege and prerogative, which are much too wide for common discernment. My conviction is, that in this measure they fell into an unconstitutional confederacy against common right.

"We must not pluck our subjects from our laws
To stick them in our wills."

Had more evidence been wanted it ought to have been produced before the same court, and subjected to the same order of examination. The Factory party have broken in on the constitutional course of justice, and the Ministry will never be able to wipe out the stain of yielding to their unhallowed cupidity. No one impeached them. It was a confession tendered by themselves upon the return of the inquest, that they were the malefactors. The Government granted them, to purge themselves, a court of their own choosing. They, the delinquents! have been consulted about the mode of procedure, and dictated more than half the proceedings which have been taken. For a nobleman who has the credit of being addicted to rural pursuits, and in the indulgence of that laudable taste, has made himself acquainted with the means of improving or deteriorating the powers of animal life, it would seem an unaccountable fancy to send out a commission to discover how great a degree of disease and suffering the youthful population could endure without eventual extirpation.

This is no exaggeration. It rests on the avowal of those who urged the appointment of the Commission, on several parts of the instructions and queries furnished to the Commissioners, and upon the acknowledgment of the Commissioners themselves, that it is an article of their employment to ascertain whether the Factory system, however cruel, debasing, and destructive it may be found to be, is not necessary to the continuance of our foreign trade. I pray your Lordship to look that position in the face, and then consider how long Christianity is likely to hold its sway in a nation where the laws of religion and the laws of the land are so unscrupulously dashed aside, merely to soothe the temper of mercantile avarice. Does your Lordship know of any Christian community, where the lives, health, morality, and religion of the free labourers, have been publicly declared to be of less consequence than the interest of money capital. But let that pass. The power to issue the Commission was questionable. The proceedings under it are utterly and absolutely void, according to the law of England.

What will your Lordship say, when you are told, as you will be in the House, that there is not one rule for securing impartial evidence, known to the English law, which has not been violated in working this commission. First of all, we behold the power of examination before a Committee of the House of Commons abdicated by that body in favour of a court of the newest form and impression. The Commissioners have gone a step further, and trundled it in the dirt.

“ When you meet with any witnesses who have given
 “ evidence before the committees of Parliament, the more
 “ desirable course will be to defer their examinations
 “ until the examinations of the other witnesses have been
 “ concluded. *One objection to the evidence given before*
 “ *the committees being, that it has not been taken on oath,*
 “ *you will on no account omit to call those witnesses before*
 “ *you, and examine them on oath in relation to the points*
 “ *as to which they have previously been examined, and on*
 “ *any other point.*”

I will not call for condemnation on these gentlemen ; because their offence, as any one may read from this specimen, arises from the darkest ignorance of the law. As to imposing of oaths, they may plead their commission and the instructions of the Secretary of State ; though nothing but an Act of Parliament could warrant it. If the House of Commons had the power, why not impart it to their own committees ? If the Crown could do it, why not grant it to all inquiries before the House of Commons ?

But beyond this, by impeaching the force of the evidence taken before a competent court, and ordering a re-examination to cure the presumed defect, they have done that which the Common Law has always considered a gross misdemeanor ; unless, in their new-fangled jurisprudence, a court so constituted and regulated by their own whims, is of superior authority to the House of Commons.

“ In a civil cause, where the Jury withdrew to confer
 “ about their verdict, one of the witnesses that was before
 “ sworn on the part of the defendant was called by the
 “ Jurors, and he recited again his evidence to them, and
 “ they gave their verdict for the defendant ; and com-
 “ plaint being made to the Judge of the Assize of *this mis-*
 “ *demeanor*, he examined the Jury, who confessed all
 “ the matter, and that the evidence was the same in effect
 “ that was given before, *et non alia nec diversa* ; so the
 “ Jury were excused : and this matter being returned
 “ upon the *postea*, the opinion of the Court was, that the
 “ verdict was not good, and a *Venire fatias de nous* was
 “ awarded.” Coke. Eliz. 189.

The Reporter has some good advice upon this matter, of which it had been lucky for your Lordship and the Commissioners to have taken notice.

“ So as a commission is a delegation by warrant of an
 “ Act of Parliament or of the Common Law, whereby
 “ jurisdiction, power, or authority, is conferred to others,
 “ *sapientis judicis est cogitare tantum sibi esse permissum,*
 “ *quantum commissum et creditum.* And it is a good
 “ rule for all Commissioners to hold the like, and ever

“ to keep themselves within their commission.” Coke, 4 Inst.

True it is that I can only cite this by way of analogy. But it is no fault of mine if the light of Whig policy leads the justice of the country a Jack-a-lantern dance over bogs and quicksands, where her feet were never yet seen to tread. I am not presumptuous enough to pretend that I can find a rule of law to fit the hodge-podge of instructions for inquiry into all manner of things, fish, flesh, and fowl; birth, marriage, procreation, and child-bearing; food and physic; spinning, policy, and pudding, into which these gentlemen — (“How more wiser are they than their years!”) — are directed to poke their omniscient noses, with a sufficient legal reproof and prohibition. The interrogatories, for instance, to be put to married women by young unmarried men, of and concerning procreation and proliferation, are only a slight offence, *contra bonos mores*, scarcely amounting to misdemeanor, merely to indelicacy.

But the gravest charge of all is, that of having actually garbled evidence on their books, taken in a manner not only unknown to the law, but in many instances most pointedly forbidden by the law. Not only have they adopted a secret, separate, and unopposed mode of examination, for which there is literally no precedent in any law except that of the Inquisition; but they have picked out a place for the mill-owners in the order of examination, which in open proceedings is contingent upon the course of the trial, which in this case would have been awarded by the law to the operatives, and cannot be assigned to the mill-owners without a suspicion of foul play.

“ You will in general take the evidence of the employers last! You will, however, should any material contradiction be made to the evidence of the preceding witnesses, re-examine them, or give them an opportunity of answering any new allegations made in evidence.”

In secula seculorum would have been the appropriate

finish to this concise direction. The mill-owners liken the examinations to a trial. The Commissioners treat the question as one upon which issue is joined; and one of their first acts is to show the defendants the plaintiff's case, receive his answer, call back the witnesses, and examine them in the dark to refute their own testimony.

All the world knows that this could not be done in a Court of Law; let us see what authority can be had for it in the practice of the Courts of Equity.

The superiority of examination *viva voce*, in open Court, is esteemed one of the greatest excellences of our law, not only from the awe and reverence which the solemnity of the manner is supposed to produce in the witness, and the regard which from thence he must have for truth, but also from the benefit of cross-examining; as also the air and manner of giving evidence often carry such convictions with them, as will induce the Court and Jury to believe or reject what the witness has sworn.—Hob. 325.

The most disastrous incident in all the encroachments made on the Common Law by the towering usurpation of the Chancery, is the changing the examinations, which were originally oral, into written, and, of course, unfronted depositions. Loose and disorderly, however, as it notoriously is, and crying out for correction as do its abuses, it is righteousness itself compared with what has been done under the Commissioners. It is not an uncommon instance for a witness to be recalled two or three times on new suggestions from the mill-owners. Let us see what is done in similar cases, in the worst regulated Court, as to the order of examination, known to this kingdom. In Commissions to examine witnesses issuing from Chancery, one of the rules is:—

“ That the affair must be performed as far as it is possible *uno actu*, that there may be as little opportunity as possible to divulge the depositions, that neither side may better their proof.”

Another is, that “ when a witness is produced, he

“ must first be examined upon the interrogatories of the
 “ producer, and then forthwith, without suffering him
 “ to go abroad, upon the cross interrogatories of the
 “ other side.”

What was to prevent the Commissioners from framing their proceedings by this model? Has “the march of intellect” so far outstript “the wisdom of ages,” that the veriest tyro in Miss Martineau’s philosophy can strike out a rule for the guidance of public justice at a moment’s notice, which shall satisfactorily replace the experience of the law? I doubt it; the nation does not believe it; and your Lordship will do well to prepare for a candid renunciation of the heresy. I am thankful for your concession, however ambiguously made, of the illegality of refusing to take a full report of the evidence by a short-hand writer. It is clear that the report now prepared must be disallowed, because of its want of all judicial form and impartiality in making it up. It cannot adequately inform the conscience of the Court.

I will now show you what has been thought of similar conduct to that of the Commissioners, for whose especial advantage I will cite a case adjudicated in a court, which alone, of all others, lies under the disrepute of contemning the common rights of the people.

Trin. 9 Jacobi. In Camera Stellata.

Richard Peacock’s case.

“ Nota. This term, in the Star Chamber, in the case
 “ between Sir George Reynel plaintiff, and Richard
 “ Peacock and other defendants, where J. H. and another
 “ were commissioners to examine Peacock upon interro-
 “ gatories drawn by the plaintiff, and Peacock being
 “ examined, would have declared the whole truth, which
 “ J.H. being a commissioner chosen by the plaintiff would
 “ not suffer him to do, but held him strictly to the inter-
 “ rogatories, so that the truth could not appear. And
 “ that was held by the Lord Chancellor, the two Chief
 “ Justices, Chief Baron, and the whole Court of the
 “ Chamber, a great misdemeanor, for it was a murdering
 “ of the truth and right, as the statute of Exeter speaks,

“and *per quod justitia et veritas suffocantur*, as it is said
 “in *capite itineris*. And commissioners to examine
 “ought to be indifferent, and by all means to express the
 “truth, and they are not strictly tied to the words of the
 “interrogatories, but to every thing also which neces-
 “sarily ariseth thereupon for the manifestation of the
 “whole truth concerning the matter in question. Also
 “the said J. H. when he was in examination went out
 “of the place to the plaintiff, who was in another room
 “near to him, and had secret conference with him. And
 “it was held *per totam curiam*, that a commissioner
 “ought not before publication of the witnesses, to dis-
 “cover to any of the parties the matter which any wit-
 “ness has deposed, nor after he beginneth to examine
 “upon the interrogatories, to confer with the party to
 “take new instructions to examine further than he knew
 “before; and if he shall so do, these are great misde-
 “meanors, punishable by fine and imprisonment. For
 “if these shall be permitted, perjury would in these days
 “abound; and forasmuch as in the Chamber and Ex-
 “chequer Star Chamber, the Courts proceed upon the ex-
 “amination of witnesses, if the truth should be by such
 “means suppressed, and falsities certified in the ex-
 “aminations, so the innocent would be oftentimes
 “punished, or the guilty escape punishment, and justice
 “and right would be utterly subverted; for as it is com-
 “monly said, the suppression of truth is the oppression
 “of the innocent.

“And the Court had so great a dislike of the pro-
 “ceedings of the said J. H., that the Attorney General
 “was ordered to prefer an information against him for
 “the said misdemeanors, and in the mean time he was
 “put out of the commission of the peace.”

I will not charge them with gross partiality. That is
 an inevitable consequence of the course adopted for the
 examinations. The offence is one of pure ignorance.
 The Factory party treated the statements against mill
 work as a matter which they were interested, according to
 some, deeply interested, in rebutting. There is no rule

which could make their evidence admissible. There is no rule of impartial evidence which does not exclude them. As a question of breach of the moral law, theirs is the culpability, if any. As a question of policy, they avow a large and perilous interest in passing the Bill. Mr. G. W. Wood, Mr. Patten, Mr. Gisborne, and Mr. Potter, treated the allegations of wasted life and health as of secondary importance to the danger threatened to fixed manufacturing capital by a diminution of the sixth part of the labour employed by it. The law of England refuses the evidence of parties directly interested in the event of the suit. There can be no proof of that interest so strong as the avowal of the parties.

“ One commoner cannot be a witness to prove the right of common in an action brought by another ; for his swearing tends to entitle himself.” Skinner, 174.

“ Trial at Bar for boundaries of land. Parson of one parish refused as a witness, because he might enlarge his parish, and by consequence his tithes.” Forest, 63.

It may be asked, have the operatives no interest in this event ? To be sure they have. They are promised, and generally believe, that the Bill will have the effect of reducing wages. It is a mistake. The diminution of supply of labour must keep up wages, at any rate, to their present standard ; and the increased hours of labour and infant employment have let down wages almost to their *minimum*. The reason is plain. There is no cheaper animal force to be had than infants employed on the present terms. Monkeys will not work, and all other living creatures are too well provided to turn their attention to a steam-mill.

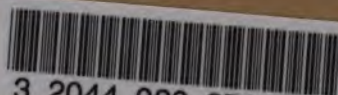
But it has been strongly inculcated into the minds of the operatives, that they will lose money by the Bill, and that bias more than establishes their evidence. It is true that they have an interest, hostile to the present system of manufacturing gain, in favour of their own health and strength, and the growth and decent training of their offspring. But these are not forbidden interests. They are cherished and encouraged by the law as it stood. May

your Lordship's administration never be cursed with success in attempting to alter it, in favour of the fugitive and perishable riches, held out as lures by foreign commerce, propagated at the expense of poverty, discord, hatred, and confusion at home! Let the Factory philosophers prate as they will, it was not by a race of squalid, rickety, half-starved paupers that your Lordship's patrimony and honours were defended from age to age, as long as danger lowered upon them, until they came into the peaceable possession of your more immediate predecessors; but by brawny limbs, enlarged in the bone, through the agency of air, out-door exercise, and solid feeding. Merry England! what has become of thy name and attributes! Well. It is in vain to sigh. We are doomed to serve under the cracked sceptre of Judea, and to spin cotton, almost *gratis*, our own nakedness notwithstanding, for the polite Gentoos and the sensible Africans.

I conclude with an earnest entreaty that your Lordship will either move for the rejection or disallowance of the report of the Commissioners, or for the House to hear counsel at the bar against it, on account of the illegality of its proceedings.







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